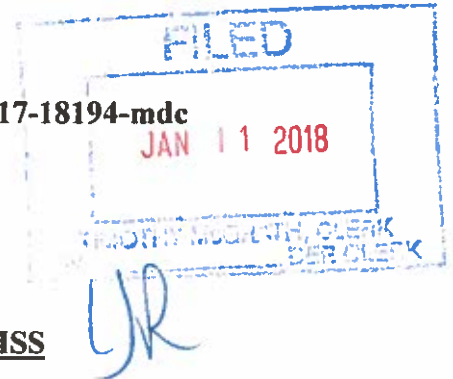


Judith Andrews Sheppard
2256 Washington Lane
Huntingdon Valley, PA 19006
215-380-0914

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: : Chapter: 7
: :
JUDITH ANDREWS SHEPPARD : Bankruptcy No: 17-18194-mdc
: :
Debtor : :



MOTION TO VACATE ORDER TO DISMISS

The undersigned Debtor, Judith Andrews Sheppard, *pro se* (hereinafter either “Debtor” or “Sheppard”) respectfully Moves this Court in accordance with the Federal Rules of Civil Procedure, Rule 6 (a)(3), to vacate its Order dated January 8, 2018 to Dismiss this Chapter 7 bankruptcy case as the dismissal was entered because the Court made a mistake in not recognizing that the inclement weather on January 5, 2018 caused the Court to be closed and therefore extended the filing date to January 8, 2018.

BACKGROUND

On December 5, 2017, Sheppard filed for bankruptcy under Chapter 7 of the Bankruptcy Act. On December 5, 2017, the Court issued an order listing the remaining unfiled documents (hereinafter “Required Documents”) and requiring that they be filed on or before December 19, 2017.

On December 13, 2017, Sheppard filed a Motion to Extend Time to file the Required Documents. On December 18, 2017, the Court issued an order granting Sheppard’s Motion to

Extend Time for the Required Documents to be filed by January 5, 2018. Please see December 18, 2017 Order attached hereto and incorporated herein as Exhibit A.

Even though Sheppard was prepared to file the Required Documents on Friday, January 5, 2018, due to the snow storm that occurred on January 4, 2018, the Court, including the clerk's office, was closed, thus preventing Sheppard from filing the Required Documents.

On Monday, January 8, 2018 at approximately 9:30 AM, Sheppard timely filed the Required Documents in accordance with Federal Rules of Civil Procedure Rule 6 (a)(3) at the clerk's office. Sheppard possesses stamped copies of each of the Required Documents evidencing that they were filed (see also a copy of the docket, which is attached hereto as Exhibit B, which also shows that the Required Documents were filed on January 8, 2018).

Also on January 8, 2018, the same day Sheppard timely filed the Required Documents, this Court issued an Order dismissing the bankruptcy case "since the debtor(s) have failed to timely file the documents required by the order date 12/5/17, ..."

CAUSE EXISTS FOR VACATING THE ORDER TO DISMISS

Rule 60 (a) of the Federal Rules of Civil Procedure provides that the court "may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record." Furthermore, Rule 6 (a)(3) states: "... if the clerk's office is inaccessible: (A) on the last day for filing under Rule 6(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; ..."

In a 1985 Amendment, Rule 6(a) was "amended to acknowledge that weather conditions or other events may render the clerk's office inaccessible one or more days. Parties who are

obliged to file something with the court during that period should not be penalized if they cannot do so.”¹

In a 2009 Amendment, Subdivision (a)(3) was further amended to state: “When determining the last day of a filing period stated in days or a longer unit of time, a day on which the clerk’s office is not accessible because of the weather or another reason is treated like a Saturday, Sunday or legal holiday.”²

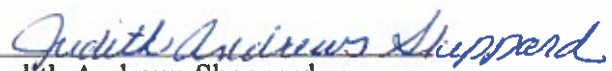
Clearly, the court was mistaken in dismissing this case. Sheppard did file the Required Documents on Monday, January 8, 2018, because the last day of the filing period was Monday, January 8, 2018 since the Court and the clerk’s office were closed on Friday, January 5, 2018 due to inclement weather.

CONCLUSION

Sheppard hereby respectfully moves this Court to vacate its Order to Dismiss this Chapter 7 bankruptcy case and to reinstitute the case effective as of January 8, 2018 as the dismissal was entered because the Court made a mistake in not recognizing that the inclement weather on January 5, 2018 caused the Court to be closed and therefore pursuant to Rule 6, Subdivision (a)(3) the filing date was in fact extended to January 8, 2018 and that Sheppard was in fact in compliance with the order dated December 5, 2017, as extended by the order dated December 18, 2018, because Sheppard did file the Required Documents on January 8, 2018.

DATED: January 11, 2018

Respectfully submitted,


Judith Andrews Sheppard, *pro se*
Debtor

¹ From Notes of Advisory Committee on Rules – 1985 Amendment.

² From Committee Notes on Rules – 2009 Amendment.

VERIFICATION

I am the Debtor in the within matter. I declare under penalty of perjury that the foregoing statements in the within Debtor's Motion to Vacate Order to Dismiss are true and correct and based on my own personal knowledge.

Dated: January 11, 2018


Judith Andrews Sheppard

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE:
JUDITH ANDREWS SHEPPARD
Debtor

Chapter: 7

Bankruptcy No: 17-18194-MDC

ORDER

AND NOW, this 18th day of December 2017, upon consideration of Debtor's request for an extension of time until **January 5, 2018** to submit the documents listed in Paragraph 1 of the Order of this Court dated the 5th day of December 2017.

It is hereby ORDERED that Debtor shall be GRANTED an extension of time until **January 5, 2018** to submit the documents listed in Paragraph 1 of the Order of this Court dated the 5th day of December 2017.

By the Court,



Judge, United States Bankruptcy Court

EXHIBIT B

DISMISSED

**U.S. Bankruptcy Court
Eastern District of Pennsylvania (Philadelphia)
Bankruptcy Petition #: 17-18194-mdc**

Assigned to: Judge Magdeline D. Coleman
Chapter 7
Voluntary
No asset

Date filed: 12/05/2017
Debtor dismissed: 01/08/2018
341 meeting: 01/09/2018
Deadline for objecting to discharge: 03/10/2018
Deadline for financial mgmt. course: 03/10/2018

Debtor disposition: Dismissed for Failure to File Information

Debtor
Judith Andrews Sheppard
2256 Washington Lane
Huntingdon Valley, PA 19006
MONTGOMERY-PA
SSN / ITIN: xxx-xx-1983

represented by **Judith Andrews Sheppard**
PRO SE

Trustee
GARY F. SEITZ
Gellert Scali Busenkell & Brown LLC
The Curtis Center
601 Walnut Street
Suite 750 West
Philadelphia, PA 19106
215-238-0011

U.S. Trustee
United States Trustee
Office of the U.S. Trustee
833 Chestnut Street
Suite 500
Philadelphia, PA 19107
(215) 597-4411

Filing Date	#	Docket Text
12/05/2017	<u>1</u> (7 pgs)	Chapter 7 Voluntary Petition for Individual . Receipt Number 0, Fee Amount \$0.00 Filed by Judith Andrews Sheppard . Government Proof of Claim Deadline: 6/3/2018. Chapter 7 Statement of Your Current Monthly Income Form 122A-1 due 12/19/2017. Means Test Calculation Form 122A-2 due: 12/19/2017. Schedule A/B due 12/19/2017. Schedule C due 12/19/2017. Schedule D due 12/19/2017. Schedule E/F due 12/19/2017. Schedule H due 12/19/2017. Schedule I due 12/19/2017. Schedule J due 12/19/2017. Statement of Financial Affairs due 12/19/2017. Summary of Assets and Liabilities

		Form B106 due 12/19/2017. Incomplete Filings due by 12/19/2017. (R., Yvette) (Entered: 12/05/2017)
12/05/2017	2	Name of Trustee assigned to case: GARY F. SEITZ, Meeting of Creditors with 341(a) meeting to be held on 01/09/2018 at 01:30 PM at 833 - Chestnut Street. Objections for Discharge due by 03/10/2018. Financial Management Course due by 03/10/2018. (R., Yvette) (Entered: 12/05/2017)
12/05/2017		Receipt Number 249753, Fee Amount \$335.00 (related document(s) 1) Chapter 7 Voluntary Petition for Individual . (R., Yvette) (Entered: 12/05/2017)
12/05/2017	3 (2 pgs)	Schedule G - Executory Contracts and Unexpired Leases Filed by Judith Andrews Sheppard . (R., Yvette) (Entered: 12/05/2017)
12/05/2017	4 (2 pgs)	Pro Se Statement Filed by Judith Andrews Sheppard . (R., Yvette) (Entered: 12/05/2017)
12/05/2017	5	Statement of Social Security Number Received. Filed by Judith Andrews Sheppard . (R., Yvette) (Entered: 12/05/2017)
12/05/2017	6 (1 pg)	Certificate of Credit Counseling Filed by Judith Andrews Sheppard . (R., Yvette) (Entered: 12/05/2017)
12/05/2017	7	Matrix Filed. Number of pages filed: 1, Filed by Judith Andrews Sheppard . (R., Yvette) (Entered: 12/05/2017)
12/05/2017	8 (1 pg)	Order Entered the debtor having failed to file or submit with the petition all of the documents required by Fed. R. Bankr.P.1007, It is hereby ORDERED that this case MAY BE DISMISSED WITHOUT FURTHER NOTICE if the documents listed are not filed by deadlines listed: Chapter 7 Statement of Your Current Monthly Income Form 122A-1 due 12/19/2017. Means Test Calculation Form 122A-2 due: 12/19/2017. Schedule A/B due 12/19/2017. Schedule C due 12/19/2017. Schedule D due 12/19/2017. Schedule E/F due 12/19/2017. Schedule H due 12/19/2017. Schedule I due 12/19/2017. Schedule J due 12/19/2017. Statement of Financial Affairs due 12/19/2017. Summary of Assets and Liabilities Form B106 due 12/19/2017. Any request for an extension of time must be filed prior to the expiration of the deadlines listed. (R., Yvette) (Entered: 12/05/2017)
12/06/2017	9 (2 pgs)	Notice of Meeting of Creditors. Request submitted to BNC for mailing (related document(s) 2). (H., Lisa) (Entered: 12/06/2017)
12/07/2017	10 (2 pgs)	BNC Certificate of Mailing - Voluntary Petition. Number of Notices Mailed: (related document(s) (Related Doc # 8)). No.

		of Notices: 1. Notice Date 12/07/2017. (Admin.) (Entered: 12/08/2017)
12/08/2017	11 (3 pgs)	BNC Certificate of Mailing - Meeting of Creditors. Number of Notices Mailed: (related document(s) (Related Doc # 9)). No. of Notices: 6. Notice Date 12/08/2017. (Admin.) (Entered: 12/09/2017)
12/13/2017	12 (2 pgs)	Motion to Extend time to file schedules and statements Filed by Judith Andrews Sheppard Represented by Self(Counsel). (W., Christine) (Entered: 12/14/2017)
12/18/2017	13 (1 pg)	Order Granting Motion to Extend Time (Related Doc # 12) Documents Due by 1/5/2018. Atty Disclosure Statement due 1/5/2018. Schedule A/B due 1/5/2018. Schedule C due 1/5/2018. Schedule D due 1/5/2018. Schedule E due 1/5/2018. Schedule F due 1/5/2018. Schedule H due 1/5/2018. Schedule I due 1/5/2018. Schedule J due 1/5/2018. Statement of Financial Affairs due 1/5/2018. Summary of Assets and Liabilities Form B106 due 1/5/2018. Chapter 7 Statement of Your Current Monthly Income Form 122A-1 Due 1/5/2018 Means Test Calculation Form 122A-2 Due: 1/5/2018. (W., Christine) (Entered: 12/18/2017)
12/20/2017	14 (2 pgs)	Notice of Appearance and Request for Notice by MARIO J. HANYON Filed by MARIO J. HANYON on behalf of U.S. Bank National Association, as Trustee Et Al.... (HANYON, MARIO) (Entered: 12/20/2017)
12/20/2017	15 (2 pgs)	BNC Certificate of Mailing - PDF Document. (related document(s) (Related Doc # 13)). No. of Notices: 1. Notice Date 12/20/2017. (Admin.) (Entered: 12/21/2017)
01/08/2018	16 (1 pg)	Order Dismissing Judith Andrews Sheppard . Missing Documents. (J., Randi) (Entered: 01/08/2018)
01/08/2018	17 (35 pgs; 5 docs)	Motion for Relief from Stay <i>RE: Property Address 2256 Washington Lane, Huntingdon Valley, PA 19006 NKA 2256 Washington Lane, Huntingdon Valley, PA 19006-5826</i> . Fee Amount \$181.00, Filed by U.S. Bank National Association, as Trustee Et Al... Represented by JEROME B. BLANK (Counsel). Objections due by 1/23/2018. (Attachments: # 1 Proposed Order # 2 Certificate of Service # 3 Exhibit A, Supplemental Declaration # 4 Exhibit B, Note) (BLANK, JEROME) (Entered: 01/08/2018)
01/08/2018	18 (2 pgs)	Notice of (related document(s): 17 Motion for Relief from Stay <i>RE: Property Address 2256 Washington Lane, Huntingdon Valley, PA 19006 NKA 2256 Washington Lane, Huntingdon Valley, PA 19006-5826</i> . Fee Amount \$181.00,) <i>with response deadline and hearing date</i> Filed by U.S. Bank National Association, as Trustee Et Al.... Hearing scheduled 2/7/2018 at

		10:30 AM at nix2 - Courtroom #2. (BLANK, JEROME) (Entered: 01/08/2018)
01/08/2018	19	Matrix Filed. Number of pages filed: 2, Filed by Judith Andrews Sheppard . (W., Christine) (Entered: 01/09/2018)
01/08/2018	20 (2 pgs)	Pro Se Statement Filed by Judith Andrews Sheppard . (W., Christine) (Entered: 01/09/2018)
01/08/2018	21 (8 pgs)	Proper Form of Petition Filed by Judith Andrews Sheppard . (W., Christine) (Entered: 01/09/2018)
01/08/2018	22 (2 pgs)	Summary of Assets and Liabilities and Certain Statistical Information Filed by Judith Andrews Sheppard . (W., Christine) (Entered: 01/09/2018)
01/08/2018	23 (27 pgs)	Schedules A/B - J Filed by Judith Andrews Sheppard . (W., Christine) (Entered: 01/09/2018)
01/08/2018	24 (13 pgs)	Statement of Financial Affairs for Individual Filed by Judith Andrews Sheppard . (W., Christine) (Entered: 01/09/2018)
01/08/2018	25 (2 pgs)	Chapter 7 Statement of Your Current Monthly Income Form 122A-1 Filed by Judith Andrews Sheppard . (W., Christine) (Entered: 01/09/2018)
01/10/2018		Receipt of Motion for Relief From Stay(17-18194-mdc) [motion,mrlfsty] (181.00) Filing Fee. Receipt number 19672161. Fee Amount \$ 181.00. (re: Doc# 17) (U.S. Treasury) (Entered: 01/10/2018)

PACER Service Center			
Transaction Receipt			
01/10/2018 16:50:31			
PACER Login:	Lin_Sheppard:4729153:0	Client Code:	
Description:	Docket Report	Search Criteria:	17-18194-mdc Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: html Page counts for documents: included
Billable Pages:	3	Cost:	0.30

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: : **Chapter: 7**
:
JUDITH ANDREWS SHEPPARD : **Bankruptcy No: 17-18194-mdc**
:
Debtor :

CERTIFICATE OF SERVICE


I, Judith Andrews Sheppard, *pro se*, debtor, hereby certify that I caused to be served a true and correct copy of the Motion to Vacate Order to Dismiss by Certified Mail, postage prepaid, at the respective last known address forth below:

Mario J. Hanyon, Esq.
Phelan Hallinan Diamond & Jones LLP
1617 JFK Boulevard, Suite 1400
One Penn Center Plaza
Philadelphia, PA 19103
Certified Mail #: 7016 0910 0001 7662 5203

Gary F. Seitz, Trustee
Gellert Scali Busenkell & Brown LLC
601 Walnut Street
The Curtis Center, Suite 750 West
Philadelphia, PA 19106
Certified Mail #: 7016 0640 0001 7662 5210

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: January 11, 2018


Judith Andrews Sheppard, *pro se*
2256 Washington Lane
Huntingdon Valley, PA 19006
Judy.linsheppard@gmail.com
(215) 380-0914